

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OLGA A.¹

Plaintiff,

v.

MARTIN O'MALLEY,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 2:22-cv-08077-FWS-MRW

**ORDER ACCEPTING FINDINGS,
CONCLUSIONS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE [34]
AND OVERRULING OBJECTION [35]**

¹ Partially redacted in compliance with Federal Rule of Civil Procedure 5.2(c)(2)(B) and the recommendation of the Committee on Court Administration and Case Management of the Judicial Conference of the United States.

1 **I. Introduction and Relevant Procedural History**

2 Before the court is the Magistrate Judge’s June 25, 2024, Report and
 3 Recommendation (“Report and Recommendation”), (Dkt. 34), regarding the
 4 “Complaint – Social Security Appeal,” (Dkt. 1 (“Complaint”), filed by Plaintiff Olga
 5 A. (“Plaintiff”). Based on the state of the record, as applied to the applicable law, the
 6 court adopts the Report and Recommendation issued by the Magistrate Judge, including
 7 each of the findings of fact and conclusions of law therein.

8 On November 4, 2022, Plaintiff filed the Complaint. (Dkt. 1.) On June 28,
 9 2023, Defendant Martin O’Malley, Commissioner of Social Security (“Defendant”),²
 10 filed an answer to the Complaint. (Dkt. 17.) On June 28, 2023, Defendant filed the
 11 Certified Administrative Record. (Dkt. 18.) On February 1, 2024, Plaintiff and
 12 Defendant filed the Joint Stipulation on Behalf of Both Parties (“Joint Stipulation”),
 13 that included the case’s factual background, a statement of disputed issues, and the relief
 14 requested by the respective parties. (Dkt. 30.) More specifically, in the Joint
 15 Stipulation, Plaintiff seeks the following relief:

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 17 [T]his Court should remand this case in accordance with the fourth sentence of
 18 42 U.S.C. § 405(g) with instructions to: (1) find that Plaintiff’s conversion
 19 disorder lasted twelve months and assess the impact of this impairment on her
 20 ability to work; (2) reassess the severity of Plaintiff’s mental impairments;
 21 (3) reassess Plaintiff’s RFC; (4) reassess Plaintiff’s subjective symptoms; and
 22 (5) issue a new decision.

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 27 ² During the earlier stages of the case, including at the time of the filing of the
 28 Complaint and Answer, the defendant was Kilolo Kijazazi, who has subsequently
 been superseded by Defendant Martin O’Malley, Commissioner of Social Security.

1 (Id. at 42-43.) On the other hand, Defendant requests that “[t]his Court should affirm
 2 the Commissioner’s final decision, as the ALJ decision is free from harmful, legal error
 3 and supported by substantial evidence.” (Id. at 43.) On February 22, 2024, Plaintiff
 4 filed the Notice of Filing Exhibits (“Notice of Filing Exhibits”), which included four
 5 exhibits that “were inadvertently not attached to the filed Joint Stipulation.” (Dkt. 32.)

6 On June 25, 2024, the Magistrate Judge filed the Report and Recommendation.
 7 (Dkt. 34.) Objections to the Report and Recommendation were due by July 9, 2024.
 8 (See Dkt. 33.) On July 9, 2024, Plaintiff filed an Objection to the Report and
 9 Recommendation, (Dkt. 35) (“Objection”).

10 II. Analysis

11 “A judge of the court may accept, reject, or modify, in whole or in part, the
 12 findings or recommendations made by the magistrate judge.” 28 U.S.C.
 13 § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b)(3) (stating “[t]he district judge must
 14 determine de novo any part of the magistrate judge’s disposition that has been
 15 properly objected to,” and “[t]he district judge may accept, reject, or modify the
 16 recommended disposition; receive further evidence; or return the matter to the
 17 magistrate judge with instructions”). Proper objections require “specific written
 18 objections to the proposed findings and recommendations” of the magistrate judge.
 19 Fed. R. Civ. P. 72(b)(2). “A judge of the court shall make a de novo determination of
 20 those portions of the report or specified proposed findings or recommendations to
 21 which objection is made.” 28 U.S.C. § 636(b)(1)(C); *see also United States v. Reyna-*
22 Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (“The statute makes it clear that the
 23 district judge must review the magistrate judge’s findings and recommendations de
 24 novo if objection is made, but not otherwise.”). Where no objection has been made,
 25 arguments challenging a finding are deemed waived. *See* 28 U.S.C. § 636(b)(1)(C)
 26 (“Within fourteen days after being served with a copy, any party may serve and file
 27 written objections to such proposed findings and recommendations as provided by
 28 rules of court.”). Moreover, “[o]bjections to a R&R are not a vehicle to relitigate the

1 same arguments carefully considered and rejected by the Magistrate Judge.” *Chith v.*
2 *Haynes*, 2021 WL 4744596, at *1 (W.D. Wash. Oct. 12, 2021).

3 In the Report and Recommendation, the Magistrate Judge recommends “that the
4 District Judge issue an order: (1) accepting the findings and recommendations in this
5 Report; (2) affirming the ALJ’s decision; and (3) entering judgment in favor of the
6 agency.” (Dkt. 34 at 10.) In the Objection, in summary, Plaintiff objects to: (1) the
7 “Magistrate Judge’s Proposed Holding that the ALJ committed no error evaluating
8 [Plaintiff’s] conversion disorder;” and the “Magistrate Judge’s proposal that the ALJ
9 did not reversibly err in evaluating ‘Plaintiff’s credibility.’” (Dkt. 35 at 2-8.) In
10 conclusion, Plaintiff states, “Based on the foregoing, as well as the arguments
11 articulated in Plaintiff’s brief, this Court should grant [Plaintiff’s] motion for summary
12 judgment, deny the Commissioner’s motion, reverse the Commissioner’s decision and
13 remand this case in accordance with the fourth sentence of 42 U.S.C. § 405(g).” (*Id.*
14 at 8.)

15 In this case, after conducting a *de novo* review of the Objection, the court agrees
16 with each of the findings of fact and conclusions of law set forth in the Report and
17 Recommendation, including the recommendations that “that the District Judge issue an
18 order: (1) accepting the findings and recommendations in this Report; (2) affirming the
19 ALJ’s decision; and (3) entering judgment in favor of the agency.” (Dkt. 34 at 10.)
20 Accordingly, the Objection is **OVERRULED** on the merits.

21 In sum, pursuant to 28 U.S.C. § 636, the court has reviewed the record,
22 including the Report and Recommendation, the Complaint, the Answer, the Joint
23 Stipulation, the Notice of Filing Exhibits, the Objection, and the other records of the
24 case. After conducting a *de novo* determination of the Report and Recommendation,
25 including the specific portions to which the Objection pertains, the court concurs with
26 and accepts the findings and conclusions of the Magistrate Judge in the Report and
27 Recommendation.

1 **III. Conclusion**

2 Based on the state of the record, as applied to the applicable law, the court
3 adopts and the Report and Recommendation, and accepts each of the findings of fact
4 and conclusions of law therein. Accordingly, the court affirms the ALJ's decision,
5 and enters judgment in favor of the agency.

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7 **IT IS SO ORDERED.**

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10 Dated: August 5, 2024



11 Hon. Fred W. Slaughter
12 UNITED STATES DISTRICT JUDGE

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